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Attorney for Plaintiff
Robert Bennett

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

ROBERT BENNETT,

Plaintiff,

vs.

REY-FANG LIN, CHARLIE CHIANG,
CHIN-SHIH LIN, SHENG-ME LIN, RAY J.
LIN; and DOES 1 through 50, inclusive,

Defendants.

] No.

]

**COMPLAINT FOR DAMAGES AND
EQUITABLE RELIEF based on:**

1. Civil Racketeering;

2. Abuse of Process;

3. Malicious Prosecution;

**4. Intentional Infliction of Emotional
Distress;**

JURY TRIAL DEMANDED

COMES NOW PLAINTIFF ROBERT BENNETT who alleges as follows:

SUMMARY

1. This is an action brought by plaintiff Robert Bennett to stop the actions of defendants in trying to evict him forcibly and illegally from his home and claim ownership.

2. In truth, defendants bought a deed of trust from a bank after foreclosure upon a parcel of land next door to plaintiff's home. Unhappy with what they acquired and rather than deal with the bank or their own real estate professionals about the matter, defendants concocted and engaged a series of illegal eviction schemes trying to force plaintiff out of his home, which is not the property

1 defendants bought an interest in. This has got to stop.

2 **DEMAND FOR JURY TRIAL**

3 3. Plaintiff Robert Bennett demands a jury trial of this civil action.

4 **JURISDICTION**

5 4. This United States District Court has subject matter jurisdiction over this matter pursuant
6 to 28 United States §1331, which provides district courts with “jurisdiction over civil actions
7 arising under the United States Constitution or laws of the United States.”

8 5. This Court also has personal jurisdiction over defendants, and each of them, and every
9 other Doe defendant, who engaged in a conspiracy to perpetrate the acts, facts and events alleged
10 herein. These acts, facts and events include the contrivance of a multiplicity of eviction schemes
11 designed to force plaintiff out of his home.

12 **VENUE**

13 6. Venue is appropriate in United States District Court, Northern District of California,
14 California as set forth herein.

15 **PARTIES**

16 7. At all times relevant herein, plaintiff Robert Bennett is and was an individual residing in
17 the real property commonly known as 1065 – 61st Street, Oakland, CA, County of Alameda,
18 State of California 94608.

19 8. At all times relevant herein, defendants Rey-Fang Lin, Charlie Chiang, Chin-Shih Lin,
20 Sheng-Me Lin, Ray J. Lin were the owners of a deed of trust related to a lot adjacent to plaintiff’s
21 home as set forth in paragraph 7, above (“defendants Fang”). Said defendants and each and every
22 other defendant named herein engage those illegals acts to forcibly evict plaintiff Bennett from
23 his home as further set forth below.

24 Defendants are sophisticated real property owner/operators currently owning some 17
25 real estate properties (including previously 24 properties).

26 **GENERAL ALLEGATIONS**

27 9. On or about July 3, 2003 plaintiff Bennett took out a loan with Oaktree Funding on an
28 undeveloped lot located with no street address next door to his property located at 1065 – 61st
Street, Oakland, CA, County of Alameda, State of California 94608.

10. Thereafter, the Oaktree Funding deed of trust was transferred to Deutsche Bank National Trust Company / Impac Secured Assets Corp. (“Deutsche”)

11. On or about October 30, 2019, foreclosed on the deed of trust.

12. On or about October 1, 2020, after unsuccessfully attempting to evict plaintiff from his home, Deutsche simply sold the Trustee’s Deed that was based on the subject deed of trust to defendants Feng.

13. Thereafter, defendants Feng, knowing full well that the legal description on the Trustee’s Deed was for the undeveloped lot – and not for plaintiff’s home – falsified the name of a tenant allegedly living in plaintiff’s home, falsified a proof of service and obtained a Judgment of Possession by default. In truth, there was no such tenant ever at plaintiff’s home.

Defendants Feng then orchestrated an illegal seizure of plaintiff’s home based on the falsified unlawful detainer action.

When plaintiff Bennett looked out his window and saw that Alameda County Sheriff’s surrounded him, he suffered a heart attack and was hospitalized.

After contentious litigation, defendants’ illegal eviction failed.

14. At that point, defendants initiated another unlawful detainer action – again based on their Trustee’s Deed for the adjacent undeveloped lot.

Litigation ensued until plaintiff Bennett filed a surveyor’s declaration with the Alameda County Superior Court. Realizing that the gig was up, defendants dismissed their second ill-fated unlawful detainer action.

15. Now, defendants have initiated a fourth illegal unlawful detainer action against plaintiff Bennett in the Alameda County Superior Court, Case No. 24CV070779. This now pending unlawful detainer action is exactly the same as the third unlawful detainer action that defendants filed against plaintiff Bennett. Defendants’ strategy this time is to falsify a Proof of Service of the Summons and Complaint in order to secure a default judgment against plaintiff Bennett. This strategy is known because a Summons and Complaint for this unlawful detainer action was found wedged between the security gate and the house on plaintiff’s front porch, e.g., no personal service was ever achieved.

16. This suit is now necessitated to put a stop to these illegal unlawful detainer processes. If defendants Feng were defrauded by Oaktree or Deutsche, this is not plaintiff Bennett's fault – Defendants will have to look elsewhere for their relief, rather than trying to illegally eviction plaintiff from his home.

FIRST CAUSE OF ACTION
(Civil Racketeering (RICO) Scheme)

17. Plaintiff by this reference incorporates each and every other paragraph set forth in this Complaint as if fully set forth herein.

18. As set forth above, defendants Feng, and each of them, are operating an illegal eviction scheme in order to secure possession of a real property that they do not own:

19. On January 14, 2020, an eviction case was filed entitled **Deutche Bank National Trust Company, et. v. Robert Bennett**, Alameda County Superior Court No. RG20050209 ("Eviction Number One"). On information and belief, after Deutche Bank determined that they had named the wrong defendants, they simply did not further pursue the case by trying to evict from a vacant lot. Instead, Deutche appears to have sold the vacant lot real property the instant defendants Rey-Fang Lin, Charlie Chiang, Chin-Shih Lin, Sheng-Me Lin, Ray J. Lin (collectively "defendants Feng")

A true and correct copy of this Eviction No. One Complaint is attached hereto as Exhibit No. 1.

20. Knowing full well that the vacant lot had noting to do with plaintiff Robert Bennett's home, and trying to secure an eviction against Robert Bennett, these defendants then filed a new eviction action entitled: **Charlie Chiang v. Todd Aubrey**, Alameda County Superior Court, Case No. 22CV013917 ("Eviction Number Two"). A true and correct copy of this Eviction No. Two Complaint is attached hereto as Exhibit No. 2.

In this case, Charlie Chiang, representing himself in pro per, concocted a fictional defendant named "Todd Aubrey" out of thin air as an excuse to secure a judgment of possession. Charlie Chiang then told the Alameda County Sheriff's Department that the inhabitants of Robert Bennett's home were violent such that the illegal Writ of Possession was executed after the home was

1 surrounded by Sheriff's Deputies. This eviction attempt ultimately failed but not after Mr. Bennett
2 suffered heart-related symptoms.

3 Not to be deterred and knowing full well that his title to the vacant lot had nothing to do
4 with the next-door home of Robert Bennett, Charlie Chiang then initiated another eviction attempt
5 in the matter of **Charlie Chiang v. Robert Bennett**, Alameda County Superior Court, Case No.
6 23CV033513 ("Eviction Number Three"). Mr. Chiang dropped this case after rigorous litigation
7 (which included a Motion for Summary Judgment) revealed that he (Chiang) did not own the
8 Bennett home, but, instead, owns the next-door vacant lot. A true and correct copy of this Eviction
9 No. Three Complaint is attached hereto as Exhibit No. 3.

10 A true and correct copy of the Declaration of Jim Moran, Moran Engineering, Inc., filed in
11 Opposition to Motion for Summary Judgment is attached hereto as Exhibit 4, which declaration
12 clearly and conclusively concludes that Charlie Chiang, et do not own the Robert Bennett home. In
13 fact, the defendants here own the next-door vacant lot.

14 Still not to be deterred, Charlie Chiang, now accompanied by all defendants Chiang, have
15 initiated Eviction Number Four, entitled: Rey-Fang Lin, Charlie Chiang, Chin-Shih Lin, Sheng-Me
16 Lin, Ray J. Lin v. Robert Bennett, Alameda County Superior Court Case No. 24CV070779
17 ("Eviction Number Four"). A true and correct copy of this Eviction No. Four Complaint is attached
18 hereto as Exhibit No. 5.

19 Revealing the cavalier manner in which this fourth eviction is now proceeding, the
20 Summons (attached hereto as Exhibit No. 6) lists the plaintiffs as:

21 **Rey-Fang Lin, Charlie Chiang, Chin-Shih Lin, Sheng-Me Lin, Ray J. Lin**

22 Yet the Complaint bearing the same case number lists only "Charlie Chiang" as the plaintiff.

23 On information and belief, a falsified posting order was secure by these eviction "plaintiffs"
24 in an attempt to secure yet another illegal judgment of possession.

25 This case is necessitated because obviously the Clerk's Office of the Alameda County
26 Superior Court cannot be relied upon to monitor plaintiff Bennett's rights.

1 As set forth above, defendants Feng, and each and every other defendant, knowingly and
2 intentionally joined together in a conspiracy to engage multiple illegal evictions to achieved their
3 scheme in violation of, inter alia, Penal Code section 115.

4 20. Defendants Feng acting in complicity with each other and each and every other defendants
5 herein, joined together for the purposes of operating a civil racketeering enterprise did those things
6 as set forth above.

7 21. Unlawful dealings in violation of 18 U.S.C. 1349, 18 U.S.C. Sections 1961, 1962 and their
8 sub-parts.

9 22. Mail fraud in violation of 18 U.S.C. Section 1341.

10 23. Wire fraud in violation of 18 U.S.C. Section 1343.

11 24. Instead of acting fairly, honestly, reasonably, and as required by statute and administrative
12 regulations, each said defendant, pursuant to a promise of and expectation of economic gain and
13 benefits, used false, fraudulent, dishonest, and corrupt pretenses and representations, calculated to
14 deceive persons of reasonable prudence and care, made material misrepresentations of relevant
15 facts, did those acts, facts and events as set forth above.

16 25. The above acts were carried out unlawfully, intentionally, willfully, and with the intent to
17 pervert and corrupt and obstruct justice, defraud plaintiffs, all while having knowledge or having
18 reason to know that such actions would cause damage and injury to plaintiffs.

19 26. Said acts were undertaken and knowingly allowed for the purpose of financial gain and the
20 expectation of financial advantage to the benefit of co-conspirators, and defendants, and each of
21 them. As a result of said actions, plaintiff suffered discrete losses of a significant nature.

22 27. During the relevant times, and in furtherance of and for the purpose of carrying out the
23 unlawful scheme, and to assist the co-conspirators in their unlawful endeavors, defendants, and
24 each of them, used, caused to be used, and participated in the use of mail depositories of the United
25 States Postal Service and wrongfully drew, uttered, tendered, and participated in the drawing,
26 uttering and tendering of cash and instruments of credit for the purposes of paying for the illegal
27 funds to themselves or others.

28. During the relevant times, and in furtherance of and for the purpose of carrying out the unlawful scheme, and to assist the co-conspirators in their unlawful endeavors, defendants, and each of them, used, caused to be used, and participated in the use of wire communications regulated as a part of interstate commerce, by both making and causing to be made telephone calls, emails, telegrams, and fax communications.

29. The aforesaid complicit conduct of defendants Feng, and each and every other defendant, as co-conspirators, constitute, inter alia, a pattern of common law fraud and included and specified in the United States Code.

30. As a direct and proximate result of the violations of statutes and regulations and as a direct and proximate result of the actions of defendants, and each of them, and violations of RICO, the complainant has been damaged as heretofore pled.

Wherefore, plaintiff seeks judgment as set forth below.

SECOND CAUSE OF ACTION

(Abuse of Process)

31. Plaintiff by this reference incorporates each and every other paragraph set forth in this Complaint as if fully set forth herein.

32. By the acts, facts and events of conspiring with each other, defendants have filed a multiplicity of illegal lawsuits designed to achieve possession of plaintiff's home by illegal means.

33. Plaintiff Bennett was harmed thereby.

34. The conduct of defendants Feng, and each and every other defendant, was a substantial factor in causing plaintiff Bennett's harm.

Wherefore, plaintiff Bennett seeks judgment as set forth below.

THIRD CAUSE OF ACTION

(Malicious Prosecution)

35. Plaintiff by this reference incorporates each and every other paragraph set forth in this Complaint as if fully set forth herein.

36. As set forth herein, defendants Feng and each and every other defendant conspired to maliciously bring the multiplicity of illegal eviction cases against plaintiff Bennett in order to achieve possession of his home.

37. No reasonable person in defendant Feng's circumstances would have believed that there were any reasonable grounds to bring the eviction actions against plaintiff Bennet as aforesaid in the Alameda County Superior Court, nor in any other Court.

38. Defendant Feng's eviction actions against plaintiff Bennet ended by being dismissed in plaintiff Bennett's favor.

39. Defendants Feng acted primarily for a purpose other than succeeding on the merits of the claim for eviction, i.e., to falsely secure ownership of plaintiff Bennett's home.

40. Plaintiff Bennett was harmed.

41. Defendants Feng's conduct was a substantial factor in causing plaintiff Bennett's harm.

FOURTH CAUSE OF ACTION

(Intentional Infliction of Emotional Distress)

42. Plaintiff incorporates each and every allegation set forth above, as though fully set forth herein, except those allegations inconsistent with a cause of action for Intentional Infliction of Emotional Distress.

43. The conduct of defendants Feng and DOES 1 to 50, and each of them, was outrageous which cannot be tolerated by a civilized society.

44. Said defendants willfully, callously and recklessly disregarded plaintiff Bennett's rights, resulting in a heart attack and hospitalization.

45. As a result of such conduct, as alleged, plaintiff Bennett experienced and suffered personal injury, was forced to endure great pain, mental anguish, humiliation, feelings of helplessness and desperation and severe emotional distress and diminution of the quality of his life.

46. The acts and omissions of said defendants Feng were motivated by a desire to increase the profitability of their Trustee's Deed and DOES 1 to 50 which predictably would lead to the severe injury and corresponding emotional distress of plaintiff Bennett.

47. Such conduct and motivation violated plaintiff Bennett's rights.

48. By virtue of the foregoing, defendants, and each of them, have acted recklessly and with fraudulent intent.

49. As a result, plaintiff suffered severe emotional distress and damages resulting therefrom.

50. The conduct herein was fraudulent, malicious, oppressive and/or reckless, entitled plaintiff to an award of punitive damages, in an amount according to proof at trial.

Wherefore, plaintiff prays for damages as hereinafter set forth in an amount of \$10.0 million or as according to proof at trial as follows:

[1] For general damages, defamations, slanders, libels, mental distress, pain, suffering and other emotional distress, in the amount of \$5.0 million or otherwise according to proof;

[2] For special damages, in the amount of \$5.0 million or otherwise according to proof;

[3] For punitive and exemplary damages in a sufficient amount to deter each and every defendant from acting in such a capricious, malicious, arbitrary, fraudulent and conspiratorial manner ever again and to make a proper example of said defendants so that no one in defendants' position would ever try such antics anywhere in the United States and/or State of California ever again;

[4] That the Court declare defendants Feng violated applicable provisions of state and federal law;

[5] For such temporary, preliminary and/or permanent injunctions sufficient to cause each and every defendant, as well as their partners, agents, employees, assignees, and all persons acting in concert or participating with therewith, to cease and desist the illegal, unfair and/or fraudulent business practices as alleged hereinabove, including, but not limited to, attempting to ever evict plaintiff from his home in any court of law;

[6] For treble damages under federal civil RICO laws or as according to proof;

[7] For treble damages pursuant to Penal Code §§484, et seq., and 496, et seq.;

[8] For attorneys' fees, costs and expenses including costs of suit, according to proof;

[9] For a Temporary Restraining Order, Preliminary and Permanent Injunctions preventing defendants, and each of them, from continuing to engage any abuse of process or malicious prosecution against plaintiff Bennett;

1 [10] For an order declaring the rights and responsibilities of the plaintiff, on the one hand,
2 and defendants Feng, and each of them, on the other hand, to wit, that defendants, and each of
3 them, are federal civil racketeers;

4 [11] For restitution and disgorgement of all ill-gotten gain;

5 [12] For additional relief, compensation and punitive damages from defendants, and each
6 of them, for their complicity in a manner that deprived plaintiff Bennett of his United States
7 Constitutional rights as provided in 42 U.S.C. 1983 and 18 U.S.C. 242, plus other prospective
8 grounds for relief, recovery and restitution favorable to plaintiff Bennett; and

9 [13] For such other and further relief as the Court may deem just and proper.

10 Date: May 22, 2024

/s/ *Donald Charles Schwartz*

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12 _____
13 Donald C. Schwartz
14 Attorney for Plaintiff
15 Robert Bennett
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EXHIBIT 1

1 Andrew E. Mina (SBN 323044)
2 HOUSER LLP
3 9970 Research Drive
4 Irvine, CA 92618
5 Tel. (949) 679-1111
6 Fax: (949) 679-1112
7 E-mail: amina@houser-law.com

ENDORSED
FILED
ALAMEDA COUNTY

JAN 14 2020
CLERK OF THE SUPERIOR COURT
By *Jason Florspey*

8 Attorneys for Plaintiff,
9 Deutsche Bank National Trust Company, as Trustee Under the Pooling and Servicing Agreement
10 Relating to Impac Secured Assets Corp., Mortgage Pass-Through Certificates, Series 2003-3

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF ALAMEDA**

13 DEUTSCHE BANK NATIONAL TRUST
14 COMPANY, AS TRUSTEE UNDER THE
15 POOLING AND SERVICING
16 AGREEMENT RELATING TO IMPAC
17 SECURED ASSETS CORP., MORTGAGE
18 PASS-THROUGH CERTIFICATES,
19 SERIES 2003-3

20 Plaintiff,

21 vs.

22 ROBERT BENNETT; and DOES 1 through
23 25, inclusive,

24 Defendants.

Case No.

RG20050209

**COMPLAINT FOR UNLAWFUL
DETAINER AGAINST OCCUPANTS
HOLDING OVER AFTER
NONJUDICIAL SALE UNDER POWER
OF SALE IN DEED OF TRUST**

[ACTION BASED ON CCP§§ 1161a]

LIMITED CIVIL CASE

Demand up to \$10,000.00

25 Plaintiff Deutsche Bank National Trust Company, as Trustee Under the Pooling and
26 Servicing Agreement Relating to Impac Secured Assets Corp., Mortgage Pass-Through
27 Certificates, Series 2003-3 ("Plaintiff") alleges as follows:

28 1. At all times herein mentioned, Plaintiff was and is qualified to do business in the
County of Alameda, State of California.

2. Plaintiff is informed and believes and thereon alleges that, Defendant Robert
Bennett is, and at all times mentioned, was, in possession of the real property located at 1065 61st
Street, Oakland, CA 94608 (the "Property").

COMPLAINT FOR UNLAWFUL DETAINER

1 3. The true names or capacities, whether individual, corporate, associate or
2 otherwise, of the Defendants named in this Complaint as DOES 1 through 25, inclusive, are not
3 known to Plaintiff who therefore sues said Defendants by such fictitious names under the
4 provisions of Section 474 of the California *Code of Civil Procedure*. Plaintiff is informed and
5 believes, and thereon alleges that Defendants DOES 1 through 25, inclusive claim a right to
6 possession of the premises against Plaintiff. Plaintiff will amend this Complaint to allege their
7 true names and capacities when ascertained.

8 4. Plaintiff is informed and believes, and thereon alleges that each of the defendants
9 is, and at all times mentioned, was, the agent and employee of each of the remaining defendants,
10 and in doing the things alleged, was acting within the scope of such agency and employment.
11 Plaintiff is informed and believes, and thereon alleges that each of the defendants ratified,
12 approved and accepted the benefits of facts of each of the remaining defendants with full
13 knowledge of the nature and effect of such acts.

14 5. Plaintiff is the owner of the Property and is entitled to possession.

15 6. On or about October 23, 2019, Plaintiff became the owner of the Property by
16 purchasing the Property at a trustee's sale held in compliance with California *Civil Code* section
17 2924. Plaintiff duly perfected its title by recording a Trustee's Deed Upon Sale on October 30,
18 2019 in the Official Records of Alameda County Recorder's Office as Instrument No.
19 2019221405. A true and correct copy of the recorded Trustee's Deed Upon Sale is attached here
20 as **Exhibit 1**.

21 7. At the time of the sale, the Defendant was in possession of the Property and has
22 remained in possession after the sale without consent of the Plaintiff. Defendant's title to and/or
23 right to possess the Property was extinguished by the trustee's sale.

24 8. On December 30, 2019 Plaintiff caused to be served a written Three Day Notice
25 to Quit (the "Notice") demanding that all persons vacate the Property within three days after
26 service of the Notice. A true and correct copy of the Notice is attached here as **Exhibit 2**.

27 9. The Notice was served pursuant to California *Code of Civil Procedure* section
28 1162(a) by attempting service on a person of suitable age or discretion at the Property, and after

1 not finding such a person of a suitable age or discretion at the Property through the exercise of
2 reasonable diligence, then by affixing a copy in a conspicuous place on the Property, and also
3 sending a copy through the mail addressed to Defendants at the address where the Property is
4 situated. A true and correct copy of the proof of service of the Notice is attached as **Exhibit 3**.

5 10. More than three days have elapsed since the service of the Notice and Defendants
6 have failed to deliver up possession of the Property and continue in possession of the Property
7 without Plaintiff's permission or consent.

8 11. The reasonable rental value of the use and occupancy of the premises is the sum
9 of \$80.73 per day, and damages to Plaintiff caused by Defendants unlawful detention have
10 accrued at that rate commencing with expiration of the Notice on January 6, 2020 and up through
11 entry of judgment, in a total sum according to proof.

12 WHEREFORE, Plaintiff prays for judgment as follows:

- 13 1. For immediate possession of the Property;
14 2. For damages at the rate of \$80.73 per day, according to proof at trial, for each day
15 Defendants continue in possession of the Property, commencing January 6, 2020;
16 3. For costs of suit incurred herein; and
17 4. For such other and further relief as the Court may deem just and proper.

18
19 DATED: January 10, 2020

HOUSER LLP

20
21 By: 

22 Andrew E. Mina
23 Attorney for Plaintiff,
24 Deutsche Bank National Trust Company, as
25 Trustee Under the Pooling and Servicing
26 Agreement Relating to Impac Secured
27 Assets Corp., Mortgage Pass-Through
28 Certificates, Series 2003-3

EXHIBIT 1



2019221405 10/30/2019 11:18 AM
OFFICIAL RECORDS OF ALAMEDA COUNTY
MELISSA WILK
RECORDING FEE: 105.00

Recording Requested By *and*

WHEN RECORDED MAIL TO:
PHH Mortgage Company
Attn: Vault
5720 Premiere Park Drive
West Palm Beach FL 33407



3 PGS

MAIL TAX STATEMENTS TO:
PHH Mortgage Company
Attn: Vault
5720 Premiere Park Drive
West Palm Beach FL 33407

*MB
3
P*

Space Above This Line For Recorder's Use

Trustee Sale No. 142288

TRUSTEE'S DEED UPON SALE

APN 15-1338-3

T.R.A. No 17-003

R&T 11926

The undersigned grantor declares:

- 1) The Grantee herein was the foreclosing beneficiary.
The amount of the unpaid debt together with costs was.....\$280,753.39
The amount paid by the grantee at the trustee sale was\$280,753.39
- 2) The documentary transfer tax \$0.00
- 3) Said property is in City of Oakland

And THE MORTGAGE LAW FIRM, PLC (herein called Trustee), as the duly appointed Trustee or substituted Trustee under the Deed of Trust hereinafter described, does hereby grant and convey, but without covenant or warranty, express or implied, to DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE UNDER THE POOLING AND SERVICING AGREEMENT RELATING TO IMPAC SECURED ASSETS CORP., MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2003-3, (herein called Grantee), all of its right, title and interest in and to that certain property situated in the County of Alameda, State of California, described as follows:

See attached exhibit A

Situs: 1065 61st Street, Oakland, CA 94608

This conveyance is made pursuant to the powers conferred upon Trustee by that certain Deed of Trust dated 06/23/2003 and executed by Robert Bennett, An Unmarried Man, as Trustor, and Recorded 07/03/2003, in Book **xx**, Page **xx**, Instrument No. 2003389526 and Modified by Modification Recorded on 2/25/11 by Instrument No. 2011066932 of official records of Alameda County, California, and after fulfillment of the conditions specified in said Deed of Trust authorizing this conveyance.

Default occurred as set forth in a Notice of Default and Election to Sell which was recorded in the Office of the Recorder of said County, and such default still existed at the time of sale.

TRUSTEE'S DEED UPON SALE

Trustee Sale No. 142288

All requirements of law regarding the mailing of copies of notices or the publication of a copy of the Notice of Default or the personal delivery of the copy of the Notice of Default and the mailing, posting and publication of copies of the Notice of Trustee's Sale have been complied with.

Trustee, in compliance with said Notice of Trustee's Sale and in exercise of its powers under said Deed of Trust, sold the herein described property at public auction on 10/23/2019. Grantee, being the highest bidder at said sale, became the purchaser of said property for the amount bid being \$280,753.39 in lawful money of the United States, or by credit bid if the Grantee was the beneficiary of said Deed of Trust at the time of said Trustee's Sale.

DATE: 10/25/2019

THE MORTGAGE LAW FIRM, PLC

Adriana Durham
Adriana Durham, Foreclosure Manager

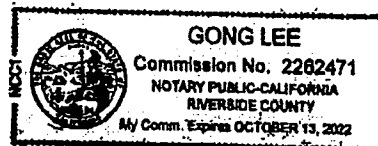
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of CALIFORNIA) SS
County of RIVERSIDE

On October 25, 2019 before me, Gong Lee, a
Notary Public, personally appeared Adriana Durham,
who proved to me on the basis of
satisfactory evidence to be the person(s)
whose name(s) is/are subscribed to the
within instrument and acknowledged to
me that he/she/they executed the same in
his/her/their authorized capacity(ies), and
that by his/her/their signature(s) on the
instrument the person(s), or the entity
upon behalf of which the person(s) acted,
executed the instrument.

I certify under PENALTY OF
PERJURY under the laws of the State
of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal



Gong Lee
Notary Public

(This area for Official Notary Seal)

EXHIBIT 2

THREE/NINETY DAY NOTICE TO QUIT
(Foreclosure Holdover – C.C.P. §1161a)

TO: ROBERT BENNETT; AND ALL OTHER OCCUPANTS AND ANY OTHER PERSONS IN POSSESSION OF THE PREMISES KNOWN AS:

1065 61st Street, Oakland, CA 94608

The above-described real property was recently sold to **DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE UNDER THE POOLING AND SERVICING AGREEMENT RELATING TO IMPAC SECURED ASSETS CORP., MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2003-3** on **OCTOBER 23, 2019** for the amount of **\$280,753.39** in accordance with California Civil Code § 2924, under a Power of Sale contained in a Deed of Trust securing said real property, and title under the foreclosure sale has been duly perfected by virtue of the Power of Sale in the Deed of Trust.

If you are a former owner of the above-described real property, or any person who is not a legitimate tenant or subtenant, **within three (3) days** after service of this Notice to Quit, you are hereby required to quit, vacate, remove, surrender and deliver up possession of the above described premises to the undersigned who is authorized to receive same. If you fail to quit possession of the premises within the three (3) days allowed by law, the undersigned will institute legal proceedings against you to recover possession of said premises; recover holdover damages, treble and statutory damages and the cost of the suit.

If you are a tenant or a subtenant of the above-described real property you must vacate the above described real property within a **maximum of ninety (90) days or the term of your lease, whichever is longer**, after service of this Notice to Quit. If you claim to be a tenant or subtenant, you must notify the undersigned and provide a copy of (1) your rental or lease agreement; (2) a utility bill; (3) recent rental receipts; (4) information on whether you receive assistance under the Department of Housing and Urban Development's Section 8 Housing Program; (5) a return phone number and the best time you can be reached; and (7) information on whether or not you are a child, spouse, or parent of the former owner of the property. If you occupy the property and you do not have a written rental or lease agreement please contact the below immediately to discuss. Please deliver the above documentation to our office within 48 hours of receipt of this notice.

If within the applicable period as set forth above, you either fail to surrender possession OR you fail to provide evidence that you are a tenant, we will commence eviction proceedings against you to recover possession of the real property and for damages caused by your unlawful detention of the real property. **UNLESS CONTACT IS MADE AND ACCEPTABLE EVIDENCE TO SHOW A LEGITIMATE TENANCY IS PRODUCED WITHIN THREE (3) DAYS OF THE SERVICE OF THIS NOTICE, THE EVICTION ACTION WILL BE COMMENCED AGAINST THE ABOVE NAMED OCCUPANTS BASED ON THE THREE (3) DAY PORTION OF THIS NOTICE.**

ATTENTION! Are you an active service member of the armed forces, or the dependent of one? If so then you **MAY** be afforded additional rights under the **SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)**. Please contact our office immediately to determine if the protections of SCRA apply to you. Be prepared to provide proof of military service.

DATED: December 26, 2019

HOUSER LLP

By: 

Andrew Mina

If you desire to discuss this Notice or any of the contents herein, you should immediately contact Tami Krogle at (949) 679-1111, 9970 Research Drive, Irvine, California 92618 between the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.

THREE/NINETY DAY NOTICE TO QUIT
(Foreclosure Holdover – C.C.P. §1161a)

Notice to Any Renters Living At 1065 61st Street, Oakland, CA 94608

The attached **notice** means that your home was recently sold in **foreclosure** and the new owner plans to evict you.

You should talk to a lawyer **NOW** to see what your rights are. You may receive court papers in a few **days**. If your name is on the papers it may hurt your credit if you do not respond and simply move out.

Also, if you do not respond within five **days** of receiving the papers, even if you are not named in the papers, you will likely lose any rights you may have. In some cases, you can respond without hurting your credit. You should ask a lawyer about it.

You may have the right to stay in your home for 90 **days** or longer, regardless of any deadlines stated on any attached papers. In some cases and in some cities with a "just cause for eviction law," you may not have to move at all. But you must take the proper legal steps in order to protect your rights.

How to Get Legal Help

If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Internet Web site (www.lawhelpca.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

This cover sheet is being provided in accordance with California Code of Civil Procedure Section 1161c.

EXHIBIT 3

VERIFICATION (C.C.P. 446 AND 2015.5)

STATE OF CALIFORNIA, COUNTY OF ORANGE

I have read the foregoing Complaint for Unlawful Detainer Against Occupants Holding Over After Non-Judicial Sale Under Power of Sale in Deed of Trust and know its contents.

☐ CHECK APPLICABLE PARAGRAPHS

- ☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.
- ☐ I am ☐ an officer ☐ a partner _____ ☐ a _____ of _____

_____ , a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.

- ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.
- ☐ The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.
- ☒ I am one of the attorneys for Deutsche Bank National Trust Company, as Trustee , a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.
- Executed on (date) January 10, 2020 , at Irvine , California.
- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Andrew E. Milna

Type or Print Name

Signature

PROOF OF SERVICE

CCP 1013a(3) Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of _____ , State of California. I am over the age of 18 and not a party to the within action; my business address is _____

On (date) _____ , **I served the foregoing document described as _____ on _____ in this action

- ☐ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:
- ☐ by placing ☐ the original ☐ a true copy thereof enclosed in sealed envelopes addressed as follows:

☐ BY MAIL

- ☐ *I deposited such envelope in the mail at _____ , California. The envelope was mailed with postage thereon fully prepaid.
- ☐ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day, with postage thereon fully prepaid at _____ , California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on (date) _____ , at _____ , California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Type or Print Name

Signature

*(BY MAIL, SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX OR BAG)

**FOR PERSONAL SERVICE, SIGNATURE MUST BE THAT OF MESSENGER)

EXHIBIT 2

1. PLAINTIFF (name each):
Charlie Chiang

alleges causes of action against DEFENDANT (name each):
Todd Aubrey, does 1-5

2. a. Plaintiff is (1) ☒ an individual over the age of 18 years. (4) ☐ a partnership.
(2) ☐ a public agency. (5) ☐ a corporation.
(3) ☐ other (specify):

b. ☐ Plaintiff has complied with the fictitious business name laws and is doing business under the fictitious name of (specify):

3. a. The venue is the court named above because defendant named above is in possession of the premises located at (street address, apt. no., city, zip code, and county):
1065 61st Street
Oakland, CA 94608, Alameda County

b. The premises in 3a are (check one)
(1) ☒ within the city limits of (name of city): Oakland
(2) ☐ within the unincorporated area of (name of county):

c. The premises in 3a were constructed in (approximate year): 1908

4. Plaintiff's interest in the premises is ☒ as owner ☐ other (specify):

5. The true names and capacities of defendants sued as Does are unknown to plaintiff.

Page 1 of 4
Civil Code, § 1940 et seq.;
Code of Civil Procedure, §§ 425.12, 1166
www.courts.ca.gov

PLAINTIFF: Charlie Chiang DEFENDANT: Todd Aubrey, does 1-5	CASE NUMBER:
---	--------------

6. a. On or about (date): 9-22-2020

defendant (name each):

Todd Aubrey, does 1-5

- (1) agreed to rent the premises as a ☐ month-to-month tenancy ☒ other tenancy (specify): squatters-no agreement
 (2) agreed to pay rent of \$ payable ☐ monthly ☒ other (specify frequency): no rent paid
 (3) agreed to pay rent on the ☐ first of the month ☒ other day (specify): no agreement

b. This ☐ written ☐ oral agreement was made with

- (1) ☐ plaintiff. (3) ☐ plaintiff's predecessor in interest.
 (2) ☐ plaintiff's agent. (4) ☒ Other (specify): They are squatters-no agreement

c. ☒ The defendants not named in item 6a are

- (1) ☐ subtenants.
 (2) ☐ assignees.
 (3) ☒ Other (specify): unknown occupants

d. ☐ The agreement was later changed as follows (specify):

e. ☐ A copy of the written agreement, including any addenda or attachments that form the basis of this complaint, is attached and labeled Exhibit 1. (Required for residential property, unless item 6f is checked. See Code Civ. Proc., § 1166.)

f. ☒ (For residential property) A copy of the written agreement is not attached because (specify reason):

- (1) ☒ the written agreement is not in the possession of the landlord or the landlord's employees or agents.
 (2) ☐ this action is solely for nonpayment of rent (Code Civ. Proc., § 1161(2)).

7. The tenancy described in 6 (complete (a) or (b))

- a. ☒ is not subject to the Tenant Protection Act of 2019 (Civil Code, § 1946.2). The specific subpart supporting why tenancy is exempt is (specify): single owner property not a corporation or investment trust
 b. ☐ is subject to the Tenant Protection Act of 2019.

8. (Complete only if item 7b is checked. Check all applicable boxes.)

- a. ☐ The tenancy was terminated for at-fault just cause (Civil Code, § 1946.2(b)(1)).
 b. ☐ The tenancy was terminated for no-fault just cause (Civil Code, § 1946.2(b)(2)) and the plaintiff (check one)
 (1) ☐ waived the payment of rent for the final month of the tenancy, before the rent came due, under section 1946.2(d)(2), in the amount of \$
 (2) ☐ provided a direct payment of one month's rent under section 1946.2(d)(3), equaling \$
 to (name each defendant and amount given to each):

c. ☐ Because defendant failed to vacate, plaintiff is seeking to recover the total amount in 8b as damages in this action.

9. a. ☐ Defendant (name each):

was served the following notice on the same date and in the same manner:

- (1) ☐ 3-day notice to pay rent or quit (5) ☐ 3-day notice to perform covenants or quit
 (2) ☐ 30-day notice to quit (not applicable if item 7b checked)
 (3) ☐ 60-day notice to quit (6) ☐ 3-day notice to quit under Civil Code, § 1946.2(c)
 (4) ☒ 3-day notice to quit Prior required notice to perform covenants served (date):
 (7) ☐ Other (specify):

PLAINTIFF: Charlie Chiang DEFENDANT: Todd Aubrey, does 1-5	CASE NUMBER:
---	--------------

9. b. (1) On (date): 7-07-2022 the period stated in the notice checked in 9a expired at the end of the day.
(2) Defendants failed to comply with the requirements of the notice by that date.
- c. All facts stated in the notice are true.
- d. ☒ The notice included an election of forfeiture.
- e. ☒ A copy of the notice is attached and labeled Exhibit 2. (Required for residential property. See Code Civ. Proc., § 1166. When Civil Code, § 1946.2(c), applies and two notices are required, provide copies of both.)
- f. ☐ One or more defendants were served (1) with the prior required notice under Civil Code, § 1946.2(c), (2) with a different notice, (3) on a different date, or (4) in a different manner, as stated in Attachment 10c. (Check item 10c and attach a statement providing the information required by items 9a-e and 10 for each defendant and notice.)
10. a. ☒ The notice in item 9a was served on the defendant named in item 9a as follows:
- (1) ☐ By personally handing a copy to defendant on (date):
- (2) ☐ By leaving a copy with (name or description):
a person of suitable age and discretion, on (date): at defendant's
☐ residence ☐ business AND mailing a copy to defendant at defendant's place of residence
on (date): because defendant cannot be found at defendant's residence or usual place of business.
- (3) ☒ By posting a copy on the premises on (date): 07-01-2022
☐ AND giving a copy to a person found residing at the premises AND mailing a copy to defendant at the premises
on (date): 07-1-2022
- (a) ☐ because defendant's residence and usual place of business cannot be ascertained OR
- (b) ☒ because no person of suitable age or discretion can be found there.
- (4) ☐ (Not for 3-day notice; see Civil Code, § 1946, before using) By sending a copy by certified or registered mail
addressed to defendant on (date):
- (5) ☐ (Not for residential tenancies; see Civil Code, § 1953, before using) In the manner specified in a written
commercial lease between the parties
- b. ☐ (Name):
was served on behalf of all defendants who signed a joint written rental agreement.
- c. ☐ Information about service of notice on the defendants alleged in item 9f is stated in Attachment 10c.
- d. ☒ Proof of service of the notice in item 9a is attached and labeled Exhibit 3.
11. ☐ Plaintiff demands possession from each defendant because of expiration of a fixed-term lease.
12. ☐ At the time the 3-day notice to pay rent or quit was served, the amount of rent due was \$
13. ☒ The fair rental value of the premises is \$ 100.00 per day.
14. ☐ Defendant's continued possession is malicious, and plaintiff is entitled to statutory damages under Code of Civil Procedure
section 1174(b). (State specific facts supporting a claim up to \$600 in Attachment 14.)
15. ☒ A written agreement between the parties provides for attorney fees.
16. ☐ Defendant's tenancy is subject to the local rent control or eviction control ordinance of (city or county, title of ordinance, and
date of passage):

Plaintiff has met all applicable requirements of the ordinances.

17. ☐ Other allegations are stated in Attachment 17.
18. Plaintiff accepts the jurisdictional limit, if any, of the court.

PLAINTIFF: Charlie Chiang DEFENDANT: Todd Aubrey, does 1-5	CASE NUMBER:
---	--------------

19. PLAINTIFF REQUESTS

- a. possession of the premises.
- b. costs incurred in this proceeding:
- c. ☐ past-due rent of \$
- d. ☒ reasonable attorney fees.
- e. ☐ forfeiture of the agreement.
- f. ☐ damages in the amount of waived rent or relocation assistance as stated in item 8: \$
- g. ☐ damages at the rate stated in item 13 from date: 07-07-2022 for each day that defendants remain in possession through entry of judgment.
- h. ☐ statutory damages up to \$600 for the conduct alleged in item 14.
- i. ☐ other (specify):

20. ☒ Number of pages attached (specify): 3

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400-6415)

21. ☒ (Complete in all cases.) An unlawful detainer assistant ☐ did not ☒ did for compensation give advice or assistance with this form. (If declarant has received **any** help or advice for pay from an unlawful detainer assistant, complete a-f.)

a. Assistant's name: California Legal
b. Street address, city, and zip code:
2061 Pleasant View Lane
Livermore, CA 94550

c. Telephone no.: 925-525-7118
d. County of registration: Alameda
e. Registration no.: 131
f. Expires on (date): 10/23

Date: 07-08-2022

Charlie Chiang

(TYPE OR PRINT NAME)


(SIGNATURE OF PLAINTIFF OR ATTORNEY)

VERIFICATION

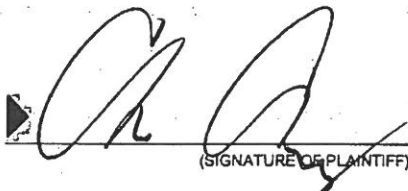
(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the plaintiff in this proceeding and have read this complaint. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07-08-2022

Charlie Chiang

(TYPE OR PRINT NAME)


(SIGNATURE OF PLAINTIFF)

Plaintiff: Charlie Chiang Defendant: Todd Aubrey, does 1-5	CASE NUMBER:
---	--------------

11. If my landlord lost this property to foreclosure, I understand that I can file this form at any time before judgment is entered, and that I have additional rights and should seek legal advice.
12. I understand that I will have *five days* (excluding court holidays) to file a response to the Summons and Complaint after I file this Prejudgment Claim of Right to Possession form.

NOTICE: If you fail to file this claim, you may be evicted without further hearing.

13. **Rental agreement.** I have (*check all that apply to you*):

- a. ☐ an oral or written rental agreement with the landlord.
- b. ☐ an oral or written rental agreement with a person other than the landlord.
- c. ☐ an oral or written rental agreement with the former owner who lost the property to foreclosure.
- d. ☐ other (*explain*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WARNING: Perjury is a felony punishable by imprisonment in the state prison.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF CLAIMANT)

NOTICE: If you file this claim to possession, the unlawful detainer action against you will be determined at trial. At trial, you may be found liable for rent, costs, and, in some cases, treble damages.

— NOTICE TO OCCUPANTS —

YOU MUST ACT AT ONCE if all the following are true:

1. You are **NOT** named in the accompanying Summons and Complaint.
2. You occupied the premises on or before the date the unlawful detainer (eviction) complaint was filed.
3. You still occupy the premises.

You can complete and SUBMIT THIS CLAIM FORM WITHIN 10 DAYS from the date of service (on the form) at the court where the unlawful detainer (eviction) complaint was filed. If you are a tenant and your landlord lost the property you occupy through foreclosure, this 10-day deadline does not apply to you. You may file this form at any time before judgment is entered. You should seek legal advice immediately.

If you do not complete and submit this form (and pay a filing fee or file a fee waiver form if you cannot pay the fee), **YOU WILL BE EVICTED.**

After this form is properly filed, you will be added as a defendant in the unlawful detainer (eviction) action and your right to occupy the premises will be decided by the court. *If you do not file this claim, you may be evicted without a hearing.*

Three Day Notice to Quit

Todd Aubrey and ALL occupants, you are all hereby notified that you are in violation of squatting by living in the property at 1065 61st Street, Oakland, CA 94608.

WITHIN THREE (3) DAYS after service on you of this notice, you are hereby required to remove any personal property and quit the premises, move out, and deliver up possession to the owner or his authorized agent. Only complete compliance with these requirements will be accepted. Failure to maintain compliance with material lease provisions after a written notice is a valid cause for eviction under CCP 1161 (2)

PLEASE TAKE FURTHER NOTICE that unless you comply in full or vacate the premises **WITHIN THREE (3) DAYS** as required by this notice, the undersigned does hereby elect to declare a forfeiture of the subject lease and/or rental agreement and will institute legal proceedings for unlawful detainer against you to recover possession of the premises.

Pursuant to §1785.26 of the California Civil Code, as required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligation.

State law permits former tenants to reclaim abandoned personal property left at the former address of the tenant, subject to certain conditions. You may or may not be able to reclaim property without incurring additional costs, depending on the cost of storing the property and the length of time before it is reclaimed. In general, these costs will be lower the sooner you contact your former landlord after being notified that property belonging to you was left behind after you moved out.

This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of being exempt from Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code as the owner is not a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; nor (3) a limited liability company in which at least one member is a corporation.

See the attached Oakland City Ordinance "Rap" sheet for information on the Oakland Rental Ordinances.



PROOF (DECLARATION) OF SERVICE OF NOTICE TO TENANT

On 07-01-2022, I served the NOTICE(s) herein to the following Tenant(s):
(Insert Date of Service of Notice)

Todd Aubrey

(Insert Name of Tenant)

all other occupants

(Insert Name of Tenant)

(Insert Name of Tenant)

(Insert Name of Tenant)

- ☐ 3 Day Notice to Pay Rent or Quit
☐ 3 Day Notice to Perform Covenant or Quit
☐ 30 Day Notice of Termination of Tenancy
☐ 60 Day Notice of Termination of Tenancy
☒ Other: 3 day notice to quit

The NOTICE(s) set forth above were served by:

☐ **PERSONAL DELIVERY:**

I **HANDED** a copy of the NOTICE(s) to the following Tenant(s)

(Insert Name of Tenant)

(Insert Name of Tenant)

☐ **SUBSTITUTED SERVICE BY LEAVING NOTICE & MAILING:**

I **LEFT** copies of the NOTICE(s) with a person of suitable age and discretion at the residence or usual place of business of the Tenant(s), said Tenant(s) being absent there from. Thereafter, on the same date, I also **MAILED** copies of the NOTICE(s) to the Tenant(s) by depositing a sealed envelope with First Class postage fully prepaid, in the United States Mail, addressed to the Tenant(s) at the Premises.

(Insert Name of the Person that you left the Notice With Who Is At Least 18 years old or Give Description (Age, Sex, Height, Weight etc). if person refuses to give name)

☒ **POSTING & MAILING:**

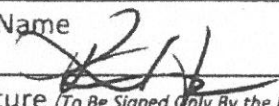
I served the NOTICE to the Tenant(s) by **POSTING** a copy of the NOTICE(s) in a conspicuous place on the Premises, as no person of suitable age or discretion could be found at the Premises and the business cannot be ascertained. Thereafter, on the same date, I also **MAILED** copies of the NOTICE(s) to the Tenant(s) by depositing a sealed envelope with First Class postage fully prepaid, in the United States Mail, addressed to the Tenant(s) at the Premises.

I declare under penalty of perjury under the laws of the State of California that that at the time of service of the NOTICE(s) I was at least EIGHTEEN (18) years of age and that foregoing is true and correct. If called as a witness to testify thereto, I could do so competently.

Executed (Signed) on 7-8-2022, at Oakland California.
(Insert City)

Robin Hill

Print Name

Signature 
(To Be Signed Only By the Person Actually Serving the Notice)

Form provided courtesy of David S. Schonfeld, A Professional Law Corporation. (714) 871-9004. © All Rights Reserved

EXHIBIT 3

Kevin A. Harris, Bar #201132
 Brian Rosales, Bar #1840780
HARRIS & ROSALES, LLP.
 1056 Division Street
 Pleasanton, CA. 94566
 Ph: (925) 417-8700
 Fax: (925) 417-8708
 kevin.harris@harrisandrosales.com

Attorney for Plaintiff

FILED
 Superior Court of California
 County of Alameda

06/28/2023

Clad Flake, Executive Officer/Clerk of the Court

By: J. Rose Deputy
 J. Rose

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
RENE C. DAVIDSON COURTHOUSE

CHARLIE CHIANG,
 Plaintiff,

v.

ROBERT BENNETT,
 Defendants,

Does 1-10, inclusive

) CASE # 23CV033513
)
) **FIRST AMENDED COMPLAINT FOR**
) **UNLAWFUL DETAINER PURSUANT TO**
) **CALIFORNIA CODE OF CIVIL**
) **PROCEDURE § 1161a**
)
) **LIMITED CIVIL JURISDICTION**
) **Under \$10,000**
)

Plaintiff alleges as follows:

1. That the subject premises of this action are located 1065 61ST STREET, OAKLAND, CA. 94608 and will hereinafter be referred to as the "subject premises".
2. That the true names or capacities, whether individual, corporate, associate, or otherwise, of Defendants DOES 1 through 10, inclusive, are unknown to Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff is informed and believes and on such information and belief alleges, that each of the Defendants designated herein as DOE was legally responsible in some manner for the events and happenings herein referred to and legally caused damages approximately thereby to Plaintiff as herein alleged.
3. Plaintiff, Charlie Chiang, is an individual,
4. Plaintiff is the owner and entitled to possession of the subject premises.

1 5. That on or about **October 25, 2019**, Charlie Chiang acquired title to the subject premises
2 by Trustee's Deed Upon Sale following foreclosure proceedings. Said foreclosure sale and all
3 notices preceding said foreclosure were done in compliance with California Code of Civil
4 Procedure Section 2924 et. seq. and title under said Trustee's Sale has been duly perfected on
5 **October 30, 2019**. Plaintiff perfected its title by recording the Trustees Deed Upon Sale with the
6 Alameda County Recorder's Office on **October 30, 2019**. A true and correct copy of the
7 recorded Trustee's Deed is attached hereto as "**Exhibit 1**" and incorporated herein by this
8 reference.

9 6. No landlord/tenant relationship exists between Plaintiff and Defendant. For the period
10 **October 25, 2019 until present**, Defendant occupied the subject premises without the consent or
11 authorization of the Plaintiff. Defendant's title, if any, to the subject premises that existed prior
12 to **October 25, 2019** was extinguished by said foreclosure proceedings and Trustee's Sale.

13 7. **On March 10, 2023**, Plaintiff caused to be served on the Defendant a written Notice to
14 Occupants to Vacate Premises (the "Notice") in compliance with California Code of Civil
15 Procedure Section 1161 et. seq. requiring and demanding that Defendant quit and deliver up
16 possession of the subject premises within three (3) days after the service of the notice on them.
17 Said Notice period expired on **March 15, 2023** but Defendant has failed to quit and deliver up
18 possession of the subject premises until present. A copy of the Notice served is attached hereto
19 as "**Exhibit 2**" and a copy of Proof of Service of such Notice is attached as "**Exhibit 3**".

20 8. Plaintiff is informed, believes and alleges that it is entitled to damages in the sum of
21 \$80.00 per day for the use and occupancy of the subject premises, the reasonable value thereof.

22 9. Defendant's hold over and continue in possession of the Subject Premises without
23 permission or consent of the Plaintiff and Plaintiff is entitled to immediate possession of the
24 subject premises.

25 10. Plaintiff has sustained damages in the amount of the reasonable rental value of the
26 property, to wit, \$80.00 per day, and will continue to sustain damages at said rate for so long as
27 Defendant remains in possession of the subject premises.

28 //

29 //

30 //

//

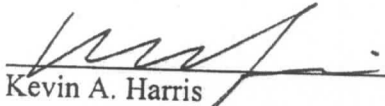
1 WHEREFORE, Plaintiff prays against Defendant and each of them as follows:

- 2 1. For restitution and possession of subject premises;
- 3 2. For holdover damages at a rate of \$80.00 per day;
- 4 3. For such other and further relief as the Court may deem proper.

5

6 DATED: June 16, 2023

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9 Kevin A. Harris

10 Attorney for Plaintiff

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Recording Requested By *and*

WHEN RECORDED MAIL TO:
 FHE Mortgage Company
 Attn: Vicki
 5726 Premiere Park Drive
 West Palm Beach FL 33407

MAIL TAX STATEMENTS TO:
 FHE Mortgage Company
 Attn: Vicki
 5726 Premiere Park Drive
 West Palm Beach FL 33407



2018221408 10/30/2018 11:18 AM
 OFFICIAL RECORDS OF ALAMEDA COUNTY
 RECORDING FEE: 100.00



3 PGS

Space Above This Line For Recorder's Use

Trustee Sale No. 142288

TRUSTEE'S DEED UPON SALE

APN 15-1338-3

T.R.A. No 17-883

R&T 11826

The undersigned grantor declares:

- 1) The Grantee herein is the following beneficiary.
 The amount of the unpaid debt together with costs was\$280,753.39
 The amount paid by the grantee at the trustee sale was\$280,753.39
- 2) The documentary transfer tax \$0.00
- 3) Said property is in City of Oakland

And THE MORTGAGE LAW FIRM, PLC (herein called Trustee), as the duly appointed Trustee or substituted Trustee under the Deed of Trust hereinafter described, does hereby grant and convey, but without covenant or warranty, express or implied, to DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE UNDER THE POOLING AND SERVICING AGREEMENT RELATING TO IMPAC SECURED ASSETS CORP., MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2883-3, (herein called Grantee), all of its right, title and interest in and to that certain property situated in the County of Alameda, State of California, described as follows:
 See attached exhibit A

Situs: 1865 61st Street, Oakland, CA 94608

This conveyance is made pursuant to the powers conferred upon Trustee by that certain Deed of Trust dated 06/23/2003 and executed by Robert Bennett, An Unmarried Man, as Trustor, and Recorded 07/03/2003, in Book XX, Page XX, Instrument No. 2903389336 and Modified by Modification Recorded on 2/25/11 by Instrument No. 2011066932 of official records of Alameda County, California, and after fulfillment of the conditions specified in said Deed of Trust antedating this conveyance.

Default occurred as set forth in a Notice of Default and Election to Sell which was recorded in the Office of the Recorder of said County, and such default still existed at the time of sale.

Page 1

EXHIBIT
 PAGE 1 OF 2

EXHIBIT

TRUSTEE'S DEED UPON SALE

Trustee Sale No. 142288

All requirements of law regarding the mailing of copies of notices or the publication of a copy of the Notice of Default or the personal delivery of the copy of the Notice of Default and the mailing, posting and publication of copies of the Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's Sale and in exercise of its powers under said Deed of Trust, sold the herein described property at public auction on 10/23/2019. Grantee, being the highest bidder at said sale, became the purchaser of said property for the amount bid being \$280,753.39 in lawful money of the United States, or by credit bid if the Grantee was the beneficiary of said Deed of Trust at the time of said Trustee's Sale.

DATE: 10/23/2019

THE MORTGAGE LAW FIRM, PLLC

Adriana Durham
Adriana Durham, Foreclosure Manager

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of CALIFORNIA
County of RIVERSIDE

193

On October 25, 2019

before me, Gong Lee
Notary Public, personally appeared Adriana Durham

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) was subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal



Gong Lee
Notary Public

(This area for Official Notary Seal)

Page 2

EXHIBIT 1
PAGE 2 OF 2

EXHIBIT
1A

4
RECORDING REQUESTED BY,
The Mortgage Law Firm, PLC
27455 Tierra Alta Way, Ste. B
Temecula, CA 92590



2019012512 01/25/2019 12:24 PM
OFFICIAL RECORDS OF ALAMEDA COUNTY
MELISSA WILK
RECORDING FEE: 105.00

AND WHEN RECORDED MAIL TO:
The Mortgage Law Firm, PLC
27455 Tierra Alta Way, Ste. B
Temecula, CA 92590
(619) 465-8200



3 PGS

MSP
3
FB

NOTICE OF TRUSTEE'S SALE

TS# 142288

EXHIBIT
1B

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

The Mortgage Law Firm, PLC
27455 TIERRA ALTA WAY, STE. B
TEMECULA, CA 92590
(619) 465-8200

Trustee Sale No. 142288

Title No. 3463225

Space above for Recorder's use only

NOTICE OF TRUSTEE'S SALE

NOTE: THERE IS A SUMMARY OF THE INFORMATION IN THIS DOCUMENT ATTACHED

注: 本文件包含一个信息摘要

참고사항: 본 첨부 문서에 정보 요약서가 있습니다

NOTA: SE ADJUNTA UN RESUMEN DE LA INFORMACIÓN DE ESTE DOCUMENTO

TALA: MAYROONG BUOD NG IMPORMASYON SA DOKUMENTONG ITO NA NAKALAKIP

LƯU Ý: KÈM THEO ĐÂY LÀ BẢN TRÌNH BÀY TÓM LƯỢC VỀ THÔNG TIN TRONG TÀI LIỆU NÀY.

YOU ARE IN DEFAULT UNDER A DEED OF TRUST, DATED 06/23/2003. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

On 02/19/2019 at 12:30 PM, The Mortgage Law Firm, PLC, as duly appointed Trustee under and pursuant to Deed of Trust recorded 07/03/2003, as Instrument No. 2003389526 and Modified by Modification Recorded on 2/25/11 by Instrument No. 2011066932, in book xx, page xx, of Official Records in the office of the County Recorder of Alameda County, State of California, executed by Robert Bennett, An Unmarried Man,

WILL SELL AT PUBLIC AUCTION TO HIGHEST BIDDER FOR CASH, CASHIER'S CHECK/CASH EQUIVALENT or other form of payment authorized by 2924h(b), (payable at time of sale in lawful money of the United States), At the Fallon Street entrance to the County Courthouse, 1225 Fallon Street, Oakland, CA 94612. All right, title and interest conveyed to and now held by it under said Deed of Trust in the property situated in said County and State, described as: FULLY DESCRIBED IN THE ABOVE DEED OF TRUST. APN 15-1338-3

The street address and other common designation, if any, of the real property described above is purported to be: 1065 61st Street, Oakland, CA 94608

The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designation, if any, shown herein. Said sale will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to pay the remaining principal sum of the note(s) secured by said Deed of Trust, with interest thereon, as provided in said note(s), advances, if any, under the terms of said Deed of Trust, fees, charges and expenses of the Trustee and of the trusts created by said Deed of Trust. The total amount of the unpaid balance of the obligation secured by the property to be sold and reasonable estimated costs, expenses and advances at the time of the initial publication of the Notice of Sale is: \$271,236.18

If the Trustee is unable to convey title for any reason, the successful bidder's sole and exclusive remedy shall be the return of monies paid to the Trustee, and the successful bidder shall have no further recourse. The beneficiary under said Deed of Trust heretofore executed and delivered to the undersigned a written Declaration of Default and Demand for Sale, and written Notice of Default and Election to Sell. The undersigned caused a Notice of Default and Election to Sell to be recorded in the county where the real property is located.

Dated: 1/22/2019

THE MORTGAGE LAW FIRM, PLC

Adriana Durham
Adriana Durham/Authorized Signature

27455 TIERRA ALTA WAY, STE. B, TEMECULA, CA 92590 (619) 465-8200

The Mortgage Law Firm, PLC.
may be attempting to collect a
debt. Any information obtained
may be used for that purpose.

EXHIBIT
1C

FOR TRUSTEE'S SALE INFORMATION PLEASE CALL 714-730-2727

NOTICE TO POTENTIAL BIDDERS: If you are considering bidding on this property lien, you should understand that there are risks involved in bidding at a trustee auction. You will be bidding on a lien, not on the property itself. Placing the highest bid at a trustee auction does not automatically entitle you to free and clear ownership of the property. You should also be aware that the lien being auctioned off may be a junior lien. If you are the highest bidder at the auction, you are or may be responsible for paying off all liens senior to the lien being auctioned off, before you can receive clear title to the property. You are encouraged to investigate the existence, priority, and size of outstanding liens that may exist on this property by contacting the county recorder's office or a title insurance company, either of which may charge you a fee for this information. If you consult either of these resources, you should be aware that the same lender may hold more than one mortgage or deed of trust on the property.

NOTICE TO PROPERTY OWNER: The sale date shown on this notice of sale may be postponed one or more times by the mortgagee, beneficiary, trustee, or a court, pursuant to Section 2924g of the California Civil Code. The law requires that information about trustee sale postponements be made available to you and to the public, as a courtesy to those not present at the sale. If you wish to learn whether your sale date has been postponed, and, if applicable, the rescheduled time and date for the sale of this property, you may call (714) 730-2727 for information regarding the trustee's sale or visit this Internet Web site - www.servicelinkASAP.com - for information regarding the sale of this property, using the file number assigned to this case: 142288. Information about postponements that are very short in duration or that occur close in time to the scheduled sale may not immediately be reflected in the telephone information or on the Internet Web site. The best way to verify postponement information is to attend the scheduled sale.

EXHIBIT
10

NOTICE TO OCCUPANT(S) TO VACATE PREMISES

Located at:
1065 61st Avenue
Oakland, CA. 94608

TO: Robert Bennett and to all persons who are in possession of and who occupy the real property at the above address (Does 1-10):

YOU ARE HEREBY NOTIFIED that your right to occupy the real property at the above address has been terminated as the result of the sale of said property by the Trustee under a power of sale contained in a Deed of Trust which appeared of record against said property.

You are required to quit and deliver up possession of real property to the undersigned, as agent for owner, within the notice period as specified below. In the event that you fail to do this, you will be deemed to be **unlawfully detaining** the premises, which will result in the commencement of court proceedings against you by the owner to recover possession of the premises, together with court costs and reasonable rental value of the property for each day of your continued occupancy thereof.

NOTICE

To avoid a lawsuit and the associated expense, it is necessary for you to vacate the above property within **THREE DAYS** after service upon you of this Notice, **UNLESS** you obtained possession of the property as a tenant or subtenant under a lease or rental agreement, in which event it will be necessary for you to vacate the premises within **NINETY (90) DAYS** after service upon you of this Notice. Please contact Kevin A. Harris at the phone number below in the event that you occupy the property as a bona fide tenant or bona fide subtenant.

Be advised, the mortgagor or the child, spouse, or parent of the mortgagor under the contract is **not** a bona fide tenant. A bona fide tenancy must be the result of an arms-length transaction and the lease or the tenancy must require the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a Federal, State or Local subsidy. This Notice is authorized pursuant to the provisions of Section 1161a(b)(3) of the California Code of Civil Procedure.

DATED: 3/8/23

Harris & Rosales, LLP.
1056 Division Street
Pleasanton, CA. 94566
(925) 417-8700

Charlie Chiang

by its authorized agent:


Kevin A. Harris, Attorney for Owner

EXHIBIT
2

ATTORNEY OR PARTY WITHOUT ATTORNEY: Kevin Harris (201132) Harris & Rosales LLP 1056 Division Street Pleasanton, CA 94566 TELEPHONE NO.: (925) 417-8700 FAX NO.: (925) 417-8708 ATTORNEY FOR:		FOR COURT USE ONLY
COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
AUTHORIZED AGENT: Charlie Chiang DEFENDANT: Robert Bennett		CASE NUMBER: NA
PROOF OF SERVICE		Ref. No. or File No.:

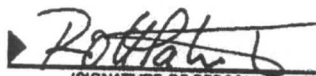
- I am over 18 years of age and not a party to this action.
- Received by Rapid Process Solution, LLC to be served on Robert Bennett, 1065 61st Street, Oakland, Alameda County, CA 94608.
- By POSTING a copy of the 3-Day Notice to Vacate for said tenant(s) in a conspicuous place on the property therein described, there being no person of suitable age or discretion to be found at any known place of residence or business of said tenant(s); AND BY MAILING a copy to said tenant(s) by depositing said copies in the United States Mail in a sealed envelope with postage fully prepaid, addressed to the tenant(s) at: 1065 61st Street, Oakland, Alameda County, CA 94608
- Date and Time of service: 3/10/2023 at 2:21 pm
- I am a registered California process server.
- My name, address, telephone number, and, if applicable, county of registration and number are:
 Name: Robert Patubo
 Firm: Rapid Process Solution, LLC
 Address: P.O. Box 1336, Pleasanton, CA 94566
 Telephone number: (925) 951-8820
 Registration Number: 1217
 County: Alameda
 The fee for the service was: \$45.70
- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

3/10/23

Robert Patubo

(TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)



(SIGNATURE OF PERSON WHO SERVED THE PAPERS)

EXHIBIT

3

Page 1 of 1

PROOF OF SERVICE

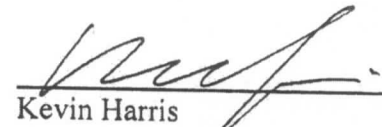
Job Number UBO-2023000262

VERIFICATION

I, the undersigned, say:

That I am the attorney for Plaintiff in this action, the Plaintiff is outside the county of Alameda, California, where I have my office, and I make this verification for and on behalf of the party for that reason. I have read the complaint for Unlawful Detainer and know its contents. I am informed and believe, and on that ground, allege that the matters stated in it are true.

Executed on June 16TH, 2023 at Pleasanton, California. I declare under penalty of perjury that the foregoing is true and correct.


Kevin Harris
Attorney for Plaintiff

NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT. CP10.5

1. If you live here and you do not complete and submit this form, you may be evicted without further hearing by the court along with the persons named in the Summons and Complaint.
2. You must file this form within 10 days of the date of service listed in the box on the right hand side of this form.
 - **Exception:** If you are a tenant being evicted after your landlord lost the property to foreclosure, the 10-day deadline does not apply to you and you may file this form at any time before judgment is entered.
3. If you file this form, your claim will be determined in the eviction action against the persons named in the complaint.
4. If you do not file this form, you may be evicted without further hearing.
5. If you are a tenant being evicted due to foreclosure, you have additional rights and should seek legal advice immediately.

CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address):		TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (Name):			
NAME OF COURT: SUPERIOR COURT OF CALIFORNIA			
STREET ADDRESS: 1225 Fallon Street			
MAILING ADDRESS:			
CITY AND ZIP CODE: Oakland CA 94612			
BRANCH NAME: Rene C. Davidson Courthouse			
Plaintiff: CHARLIE CHIANG			
Defendant: ROBERT BENNETT			
PREJUDGMENT CLAIM OF RIGHT TO POSSESSION			
Complete this form only if ALL of these statements are true:			CASE NUMBER:
1. You are NOT named in the accompanying Summons and Complaint.			23cv033513
2. You occupied the subject premises on or before the date the unlawful detainer (eviction) complaint was filed. (The date is in the accompanying Summons and Complaint.)			(To be completed by the process server)
3. You still occupy the subject premises.			DATE OF SERVICE:
			(Date that form is served or delivered, posted, and mailed by the officer or process server)

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

1. My name is (specify):
2. I reside at (street address, unit no., city and ZIP code):
1065 61ST STREET
OAKLAND CA 94608
3. The address of "the premises" subject to this claim is (address):
1065 61ST STREET
OAKLAND CA 94608
4. On (insert date): , the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is in the accompanying Summons and Complaint.)
5. I occupied the premises on the date the complaint was filed (the date in item 4). I have continued to occupy the premises ever since.
6. I was at least 18 years of age on the date the complaint was filed (the date in item 4).
7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in item 4).
8. I was not named in the Summons and Complaint.
9. I understand that if I make this claim of possession, I will be added as a defendant to the unlawful detainer (eviction) action.
10. (Filing fee) I understand that I must go to the court and pay a filing fee of \$ or file with the court an "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file the form for waiver of court fees, I will not be entitled to make a claim of right to possession.

(Continued on reverse)

Plaintiff: CHARLIE CHIANG	CASE NUMBER:
Defendant: ROBERT BENNETT	23cv033513

11. If my landlord lost this property to foreclosure, I understand that I can file this form at any time before judgment is entered, and that I have additional rights and should seek legal advice.
12. I understand that I will have *five days* (excluding court holidays) to file a response to the Summons and Complaint after I file this Prejudgment Claim of Right to Possession form.

NOTICE: If you fail to file this claim, you will be evicted without further hearing.

13. **Rental agreement.** I have (*check all that apply to you*):
- ☐ an oral or written rental agreement with the landlord.
 - ☐ an oral or written rental agreement with a person other than the landlord.
 - ☐ an oral or written rental agreement with the former owner who lost the property to foreclosure.
 - ☐ other (*explain*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WARNING: Perjury is a felony punishable by imprisonment in the state prison.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF CLAIMANT)

NOTICE: If you file this claim to possession, the unlawful detainer action against you will be determined at trial. At trial, you may be found liable for rent, costs, and, in some cases, treble damages.

- NOTICE TO OCCUPANTS -

YOU MUST ACT AT ONCE if all the following are true:

1. You are **NOT** named in the accompanying Summons and Complaint.
2. You occupied the premises on or before the date the unlawful detainer (eviction) complaint was filed.
3. You still occupy the premises.

You can complete and SUBMIT THIS CLAIM FORM WITHIN 10 DAYS from the date of service (on the form) at the court where the unlawful detainer (eviction) complaint was filed. If you are a tenant and your landlord lost the property you occupy through foreclosure, this 10-day deadline does not apply to you. You may file this form at any time before judgment is entered. You should seek legal advice immediately.

If you do not complete and submit this form (and pay a filing fee or file a fee waiver form if you cannot pay the fee), YOU WILL BE EVICTED.

After this form is properly filed, you will be added as a defendant in the unlawful detainer (eviction) action and your right to occupy the premises will be decided by the court. *If you do not file this claim, you may be evicted without a hearing.*

EXHIBIT 4

Jason W. Estavillo (Bar No. 188093)
Chioma Chuks-Orji (Bar No. 338684)
ESTAVILLO LAW GROUP
555 12th Street, Suite 1280
Oakland, California 94607
Telephone: (510) 982-3001
Facsimile: (510) 982-3002
Email: jason@estavillolaw.com
chioma@estavillolaw.com

Attorneys for Defendant Robert Bennett

ELECTRONICALLY FILED
Superior Court of California
County of Alameda

03/08/2024

Chad Firke, Executive Officer / Clerk of the Court

By: A. Khan Deputy

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

CHARLIE CHIANG,

Plaintiffs,

vs.

ROBERT BENNETT; and DOES 1-10,

Defendants.

) Case No.: 23CV033513

)
) **DECLARATION OF JIM MORAN IN**
) **SUPPORT OF DEFENDANT'S**
) **OPPOSITION TO PLAINTIFF'S**
) **MOTION FOR SUMMARY JUDGEMENT**

) Date: March 11, 2024

) Time: 1:30 P.M.

) Dept.: 511

DECLARATION OF JIM MORAN

I, Jim Moran, hereby declare:

1. I am a Licensed Land Surveyor – No. 7881 with Moran Engineering, Inc. If called as witness, I could and would competently testify to each fact stated herein. I make this declaration in support of the Opposition to Plaintiff’s Motion for Summary Judgment.

2. After a review of the Trustee’s Deed, recorded on October 30, 2019, under Series Number 2019-221405, Official Records of Alameda County, it is my professional opinion that the land described therein does not agree with the Property known as 1065 61st Street, Oakland, CA 94608 (the “House” or “Property”) as depicted on the county assessor’s map as the Assessor’s Parcel Number 015-1338-003.

3. The Trustee’s Deed describes a parcel that begins 50 feet from the intersection of Herzog and 61st Streets, then extends 50 feet easterly along 61st Street. This puts the eastern line of the parcel 100 feet from the intersection.

4. The county assessor’s map shows this parcel as beginning 87.50 feet from the same intersection, then extending 37.50 feet easterly from there, which puts the eastern line of the parcel 125 feet from this same intersection. A true and correct copy of the county’s assessor’s map is attached and incorporated as **Exhibit A**.

5. I’ve annotated a copy of the Assessor’s Parcel Map to visually reflect the approximation of the parcels described by several deeds related to this property, with each deed color coded to indicate which parcel outline they describe. A marked up copy of the county’s assessor’s map is attached and incorporated as **Exhibit B**.

6. The description of the parcel to the east of 1065 61st Street (015-1338-004) begins 125 feet from this intersection, which agrees with the placement of this shared line as shown on this county assessor’s map and leaves a gap of 25 feet with the parcel described in the deed referenced above.

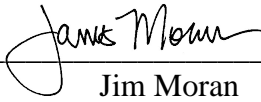
7. It is within this apparent 25-foot gap that most of the existing House/Property, known as 1065 61st Street lies.

8. Given that the Trustee’s Deed describes a property that is from 50 to 100 feet from this intersection, this House/Property is clearly not encompassed in the parcel described in the Trustee’s

1 Deed because the house appears to lie between approximately 95 feet and 120 feet from the intersection
2 of Herzog and 61st Streets.

3 I declare under penalty of perjury under the laws of California that the foregoing is true and
4 correct.

5 Executed this 8th day of March, 2024 at Oakland, California.
6

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9 _____
10 Jim Moran
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EXHIBIT

ASSESSOR'S MAP 15

Code Area No. 17-003

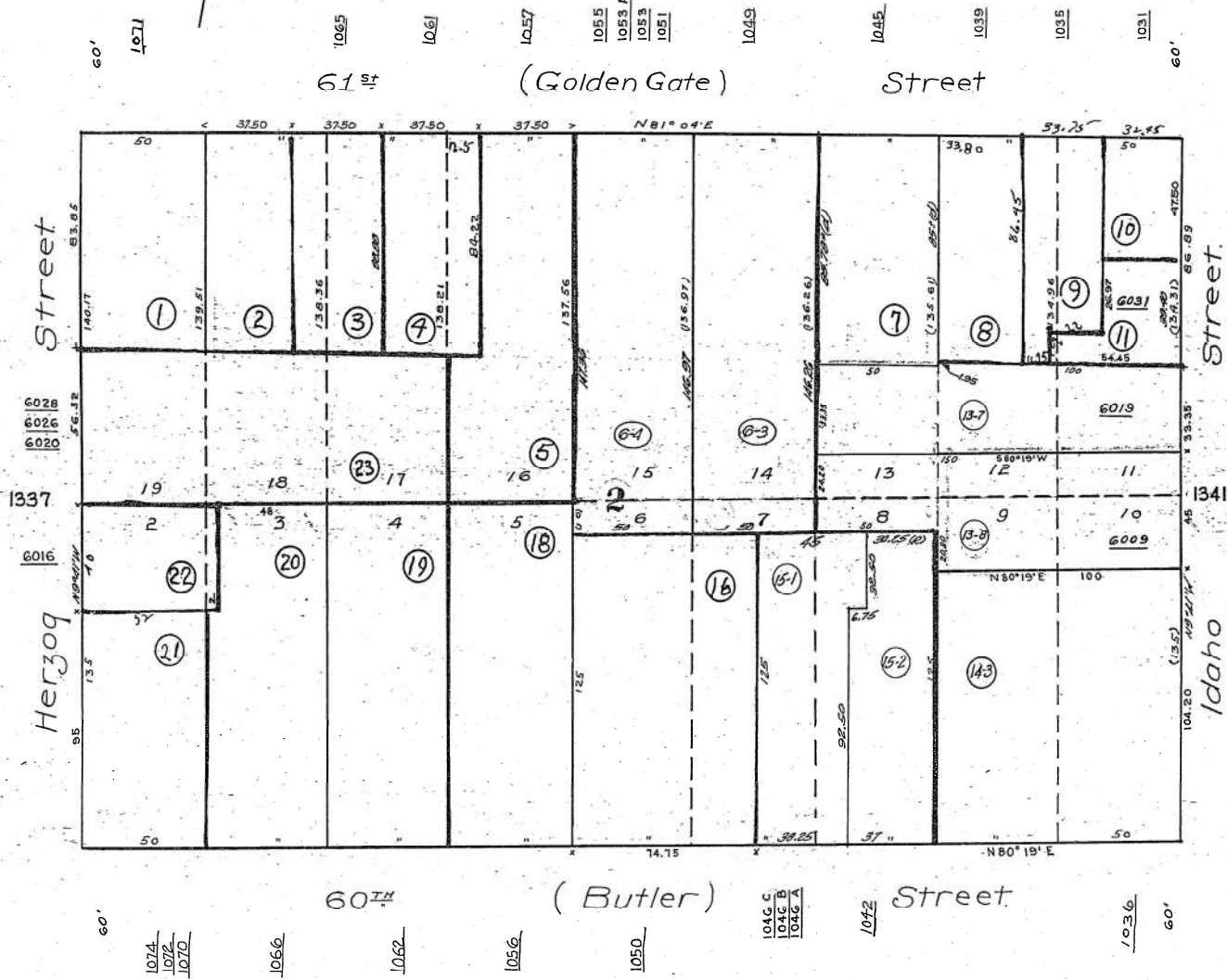
1338

Amended Map of the Butler Tract (Oakland)

Scale 1 in = 40 ft.

B O O K 1 6

12-19-78 BM
8-4-97 WL



1339

EXHIBIT **B**

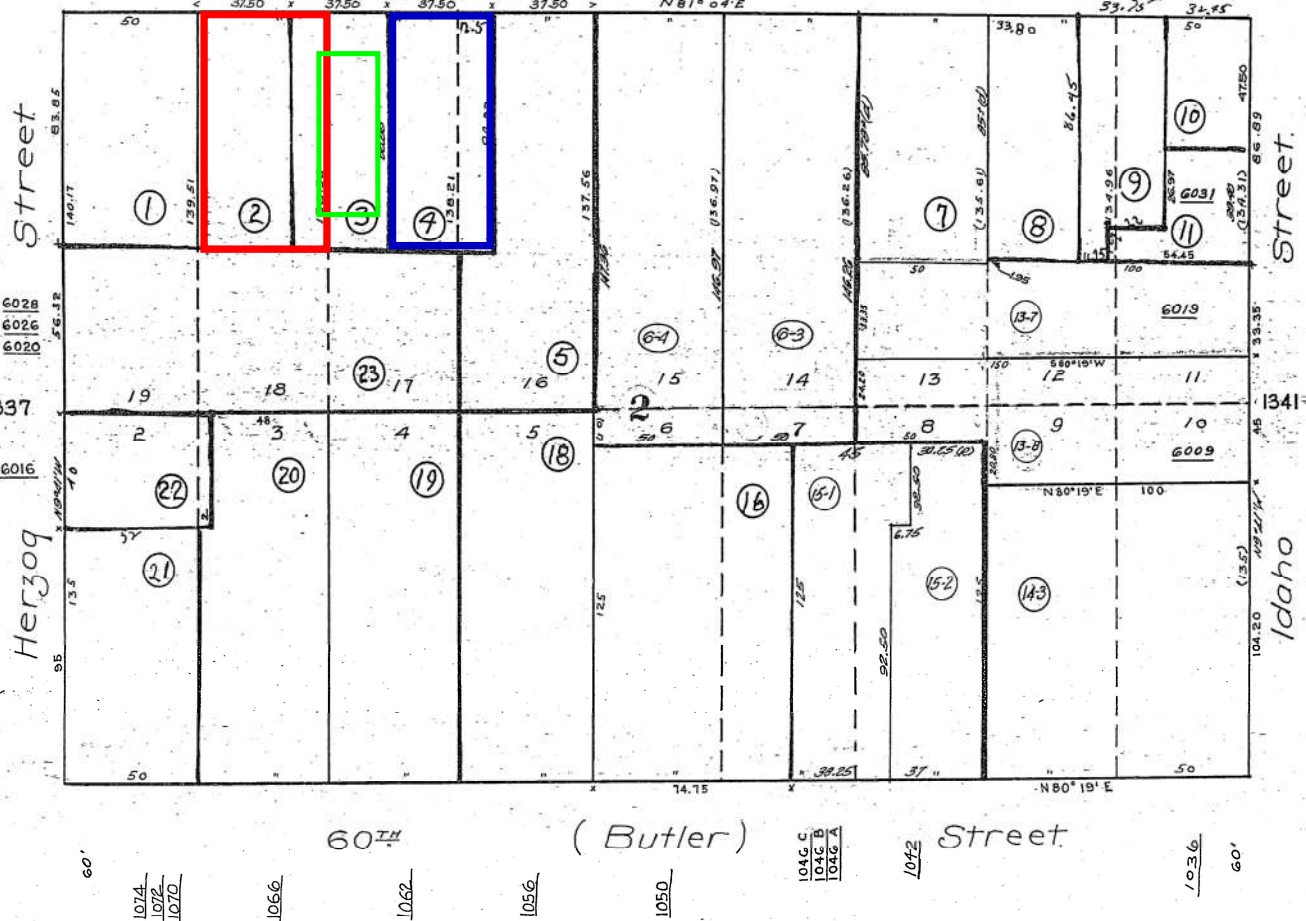
ASSESSOR'S MAP 15

Code Area No.17-003

1338

Amended Map of the Butler Tract (Oakland)
Scale 1 in = 40 ft.

BOOK 16



1339

DOC # 2020-255498 APN 015-1338-003 DA CRUZ TO LIN
 DOC # 2019-221405 APN 015-1338-003 TRUSTEE DEED
 DOC # 2002-498829 APN 015-1338-002 LAM TO BENNETT

DOC # 2013-192730 APN 015-1338-004 DELLA SANTA TO
 DELLA SANTA AND VENITE

APPROXIMATE LOCATION OF EXISTING HOUSE AT
 1065 61ST STREET

EXHIBIT 5

Kevin A. Harris, Bar #201132
Brian Rosales, Bar #1840780
HARRIS & ROSALES, LLP.
7567 Amador Valey Blvd., Suite 300
Dublin, CA. 94568
Ph: (925) 417-8700
Fax: (925) 417-8708
kevin.harris@harrisandrosales.com

Attorney for Plaintiff

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

04/08/2024 at 01:43:40 PM

By: Joshua Rose,
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
RENE C. DAVIDSON COURTHOUSE

CHARLIE CHIANG,
Plaintiff,

v.

ROBERT BENNETT,
Defendants,

Does 1-10, inclusive

) Case No.: 24CV070779
)
) **COMPLAINT FOR UNLAWFUL**
) **DETAINER PURSUANT TO**
) **CALIFORNIA CODE OF CIVIL**
) **PROCEDURE § 1161a**
)
) **LIMITED CIVIL JURISDICTION**
) **Under \$10,000**

Plaintiff alleges as follows:

1. That the subject premises of this action are located 1065 61ST STREET, OAKLAND, CA. 94608 and will hereinafter be referred to as the "subject premises".
2. That the true names or capacities, whether individual, corporate, associate, or otherwise, of Defendants DOES 1 through 10, inclusive, are unknown to Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff is informed and believes and on such information and belief alleges, that each of the Defendants designated herein as DOE was legally responsible in some manner for the events and happenings herein referred to and legally caused damages approximately thereby to Plaintiff as herein alleged.
3. Plaintiff, Charlie Chiang, is an individual,+
4. Plaintiff is the owner and entitled to possession of the subject premises.

EXHIBIT 6

SUMMONS—EVICTION
(CITACIÓN JUDICIAL—DESALOJO)

SUM-130

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

UNLAWFUL DETAINER / FORCIBLE DETAINER / FORCIBLE ENTRY

(RETENCIÓN ILÍCITA DE UN INMUEBLE / RETENCIÓN FORZOSA / ENTRADA FORZOSA)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

ROBERT BENNETT
DOES 1-10, INCLUSIVE

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

CHARLIE CHIANG; REY-FANG LIN; CHIN-SHIH LIN; SHENG MEI-LIN

ELECTRONICALLY FILED

Superior Court of California
County of Alameda

04/08/2024

Crista Firke, Executive Officer / Clerk of the Court

By: J. Rose Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 5 days. You have 5 DAYS, not counting Saturdays and Sundays and other judicial holidays, after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. If this summons was served through the Secretary of State's Safe at Home address confidentiality program, you have 10 days from the date of service, not counting Saturdays and Sundays and other judicial holidays, to respond.

A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courts.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services website (www.lawhelpca.org), the California Courts Online Self-Help Center (www.courts.ca.gov/selfhelp), or by contacting your local court or county bar association.

FEE WAIVER: If you cannot pay the filing fee, ask the clerk for a fee waiver form. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Usted ha sido demandado. Si no responde dentro de 5 días, el tribunal puede emitir un fallo en su contra sin una audiencia. Una vez que le entreguen esta citación y papeles legales, solo tiene 5 DÍAS, sin contar sábado y domingo y otros días feriados del tribunal, para presentar una respuesta por escrito en este tribunal y hacer que se entregue una copia al demandante. Si la presente citación le ha sido entregado a través del programa de dirección confidencial del Secretario del Estado Seguro en Casa, tiene 10 días después de la fecha de entrega, sin contar sábado y domingo y otros días feriados del tribunal, para responder.

Una carta o una llamada telefónica no lo protege. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no presenta su respuesta a tiempo, puede perder el caso por falta de comparecencia y se le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpca.org/es), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados local.

EXENCIÓN DE CUOTAS: Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos con un gravamen sobre cualquier monto de \$10,000 ó más recibido mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desestimar el caso.

1. The name and address of the court is:
(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA
1225 Fallon Street
Oakland CA 94612

2. The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Kevin A. Harris, Bar #201132 Harris & Rosales LLP
7567 AMADOR VALLEY BLVD SUITE #300 (925) 417-8700
DUBLIN, CA 94568

CASE NUMBER (número de caso):
24CV070779